

1           BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

2                               - - -

3   In the Matter of                       :  
4   Steven Holliday                     : Case No. 09-859-TR-CVF

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6                               - - -

7                               PROCEEDINGS

8   before Ms. Katie Stenman and Mr. Scott Farkas,  
9   Attorney Examiners, at the Public Utilities  
10   Commission of Ohio, 180 East Broad Street, Room 11-D,  
11   Columbus, Ohio, called at 10:00 a.m. on Wednesday,  
12   January 27, 2001.

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1 APPEARANCES:

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3 Ohio Attorney General  
4 By Ms. Sarah J. Parrot  
5 Public Utilities Section  
6 180 East Broad Street, Floor 9  
7 Columbus, Ohio 43215

8 On behalf of the PUCO Staff.

9 Mr. Steven Holliday  
10 5311 Duncan Street, Apt 2  
11 Pittsburgh, Pennsylvania 15201

12 Pro Se.

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## INDEX

- - -

## WITNESSES PAGE

## ROBERT KERNIK

Direct examination by Ms. Parrot	6
Examination by Examiner Stenman	20
Examination by Examiner Farkas	22
Continued direct by Ms. Parrot	22

## JONATHAN FRYE

Direct examination by Ms. Parrot	24
----------------------------------	----

## STEVEN HOLLIDAY

Direct testimony by Mr. Holliday	35
Examination by Examiner Stenman	38
Examination by Examiner Farkas	41
Cross-examination by Ms. Parrot	44

## ROBERT KERNIK

Further direct by Ms. Parrot	49
Examination by Examiner Farkas	52

- - -

## STAFF EXHIBITS ID'D REC'D

1 - Driver/Vehicle Examination Report	10	23
---------------------------------------	----	----

2 - Fine Schedule, Out of Service Violations	29	35
--	----	----

3 - Notice of Apparent Violation and Intent to Assess Forfeiture	32	35
--	----	----

4 - Notice of Preliminary Determination	33	35
---	----	----

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1                               Wednesday Morning Session,  
2                               January 27, 2001.

3                               - - -

4                               EXAMINER STENMAN: The Public Utilities  
5 Commission of Ohio has assigned for this time and  
6 place Case No. 09-859-TR-CVF, being in the matter of  
7 the request for Steven Holliday for an administrative  
8 hearing.

9                               My name is Katie Stenman and with me is  
10 Scott Farkas, we are the Attorney Examiners assigned  
11 by the Commission to hear this case.

12                              At this time I'd like to take appearances  
13 of the parties starting with staff.

14                              MS. PARROT: Good morning, your Honors.  
15 On behalf of the staff of the Public Utilities  
16 Commission of Ohio, Richard Cordray, Ohio Attorney  
17 General, Duane W. Lucky, Section Chief, by Sarah J.  
18 Parrot and Thomas G Lindgren, Assistant Attorneys  
19 General, 180 East Broad Street, Columbus, Ohio 43215.

20                              EXAMINER STENMAN: And, Mr. Holliday, if  
21 you'd identify yourself.

22                              MR. HOLLIDAY: Steven Holliday, 5311  
23 Duncan Street, Pittsburgh, Pennsylvania.

24                              EXAMINER STENMAN: How do you spell your  
25 last name?

1 MR. HOLLIDAY: H-o-l-l-i-d-a-y.

2 EXAMINER STENMAN: Thank you,

3 Mr. Holliday.

4 And at this time I just want to make sure  
5 that you're choosing to go forward without an  
6 attorney. You know you could have retained counsel  
7 if you so chose.

8 MR. HOLLIDAY: Okay, I didn't know, but,  
9 yes.

10 EXAMINER STENMAN: And you're choosing to  
11 go forward at this point?

12 MR. HOLLIDAY: Right, correct.

13 EXAMINER STENMAN: Have you been to one  
14 of these proceedings before?

15 MR. HOLLIDAY: No, I have not.

16 EXAMINER STENMAN: Just for clarity  
17 what's going to happen, the Attorney General will  
18 have a chance to call her witnesses, she'll ask them  
19 questions and then you'll have an opportunity to ask  
20 questions of those witnesses.

21 When she's done with her case then you'll  
22 have an opportunity to make a statement if you so  
23 choose, and then she'll have the ability to ask  
24 questions of you.

25 MR. HOLLIDAY: Okay.

1 EXAMINER STENMAN: Do you have any  
2 questions before we get started?

3 MR. HOLLIDAY: No, I do not.

4 EXAMINER STENMAN: We ready to proceed?  
5 You may call your first witness.

6 MS. PARROT: The staff calls Officer  
7 Robert Kernik to the witness stand.

8 (Witness sworn.)

9 - - -

10 ROBERT KERNIK  
11 being first duly sworn, as prescribed by law, was  
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 By Ms. Parrot:

15 Q. Good morning, Officer Kernik. Would you  
16 please state and spell your name for the record?

17 A. Robert Kernik. Last name K-e-r-n-i-k.

18 Q. Thank you.

19 And your business address please?

20 A. That would be Cambridge, Ohio. State  
21 Highway Patrol Post 30.

22 Q. Are you also employed by the State  
23 Highway Patrol I assume?

24 A. Yes.

25 Q. How long have you been employed by the

1 Highway Patrol?

2 A. Well, ten years with Public Utilities  
3 Commission and 13 years and six months with the State  
4 Highway Patrol.

5 Q. What is your title or in what capacity  
6 are you employed with the Patrol?

7 A. Motor carrier enforcement officer.

8 Q. Thank you.

9 And would you please tell us what your  
10 job duties are?

11 A. Motor carrier inspection regarding  
12 trucking industry.

13 Q. And generally what does that encompass?

14 A. Enforcing Federal Motor Carrier  
15 regulations.

16 Q. What equipment has been issued to you so  
17 that you may perform your job?

18 A. Laptop computer, cruisers, training.  
19 Creepers so you can get underneath for level 1  
20 inspection to check the brakes and things. Copy of  
21 the Federal Motor Carrier regulations and the hazmat  
22 regulations.

23 Q. And the uniform that you're wearing today  
24 as well?

25 A. Yes.

1 Q. Thank you.

2 What part of the state are you assigned  
3 to patrol?

4 A. District 7.

5 Q. And what counties does that include?

6 A. Monroe, Belmont, Guernsey, Noble,  
7 Washington, Muskingum, Tuscarawas, Jefferson,  
8 Harrison, Carroll Counties.

9 Q. Do you hold any certifications or have  
10 you received any special training?

11 A. Yes. We're sent to North American  
12 Vehicle Inspection Level 1 inspection course, hazmat  
13 inspection course, all packaging inspection, motor  
14 coaches inspection course. Yearly in-service  
15 training and periodic training throughout the year in  
16 the event there's any changes in regulations.

17 Q. Were you on duty on May 27 of 2009?

18 A. Yes, I was.

19 Q. And on that date did you have occasion to  
20 inspect a vehicle operated by Appliance Warehouse and  
21 driven by Steven Holliday?

22 A. Yes, I did.

23 Q. And what prompted you to conduct an  
24 inspection?

25 A. That day we were working at the Cambridge



1 scales facilities and when I finished a truck, I came  
2 back in and next available truck that comes down that  
3 I'd like to inspect I had pull around back. I have a  
4 USSP number 5 truck come across the ramp.

5 Q. And that's the reason that you stopped  
6 this particular vehicle that day?

7 A. Yes.

8 Q. Was that based on --

9 A. When I finished my last inspection I come  
10 back in and when I got ready, I count to number 5 and  
11 then there's a different listing on here for the  
12 reason code which I didn't find out till I got to the  
13 back and entered their DOT number into my laptop  
14 computer. Give me an ISSS.

15 Q. What does that score represent?

16 A. That score represents company safety  
17 rating from good, optional, to must inspect.

18 Q. And so based on the score for this  
19 vehicle --

20 A. That is the reason code on the  
21 inspection, yes. On DOT.

22 Q. And you're referring to a report. Is  
23 that a report that you generated during the course of  
24 this inspection?

25 A. Yes.

1           Q.    And would you please just generally  
2 describe what that report -- what type of information  
3 it contains?

4           A.    Okay, level 1 inspection, that consists  
5 of measurements, brake measurements on the truck,  
6 driver interview, checking insurance and everything  
7 on the truck. And company insurance. General safety  
8 on the truck.

9           Q.    And it would note any violations that you  
10 find during the course of the inspection?

11          A.    Yes.

12          Q.    Thank you.

13          MS. PARROT: May I approach the witness,  
14 your Honors?

15          EXAMINER STENMAN: Sure.

16          MS. PARROT: Your Honor, at this time I  
17 would like to mark for identification purposes Staff  
18 Exhibit 1.

19          EXAMINER STENMAN: It will be so marked.

20          (Exhibit marked.)

21          MS. PARROT: And, Mr. Holliday, do you  
22 have a copy of what's been marked as Staff Exhibit 1  
23 before you?

24          MR. HOLLIDAY: Yes.

25          MS. PARROT: Thank you.

1 By Ms. Parrot:

2 Q. Officer Kernik, would you please direct  
3 your attention to what's been marked as Staff  
4 Exhibit 1. Do you recognize this document?

5 A. Yes.

6 Q. And would you identify it for us please?

7 A. This is the inspection that I produced.

8 Q. And this report was prepared by you?

9 A. Yes.

10 Q. And was it prepared as part of your  
11 official job duties?

12 A. Yes.

13 Q. You've given us an overview of the type  
14 of information it contains. Would you please tell us  
15 how you prepared this report?

16 A. After I pulled the truck first thing I go  
17 around back, I have to give a plate number off either  
18 the tractor or the trailer with -- let them know I'm  
19 signal 3.

20 And I proceed to enter the DOT number or  
21 the motor carrier number on the truck in the Aspen  
22 program, which brings up general information;  
23 company's name and address.

24 Then I approach the driver, explain to  
25 him why I pulled -- wouldn't let him go through, and

1 ask for documents that I need from the driver;  
2 license, medical card, bills of lading if they're  
3 loaded, truck registration, logbook if they need one.

4 And then I go back to my car -- cruiser  
5 and enter that information and I go back and I start  
6 the inspection process. Which starts with the  
7 lights, everything, check the general outside, tires  
8 and everything.

9 Then on the level 1 last thing I'll do is  
10 get underneath the truck on the creeper and start  
11 going back and measure all the brakes, write down all  
12 that information. Go back to my cruiser and then  
13 start listing any violations that I noted.

14 Q. Thank you.

15 You mentioned Aspen software I believe?

16 A. Yes.

17 Q. Or an Aspen program?

18 A. Yes.

19 Q. Is that something that's issued to you as  
20 part of your job?

21 A. Yes. That's the program that's in our  
22 laptop computers for the purpose of conducting the  
23 inspections.

24 Q. So you use that laptop and that Aspen  
25 software to prepare this report?

1           A.    Yes.

2                   EXAMINER STENMAN:   Just for clarity, what  
3   does Aspen stand for if you know?

4                   THE WITNESS:   No.

5                   EXAMINER STENMAN:   Okay.

6                   EXAMINER FARKAS:   But it's a federal  
7   program?

8                   THE WITNESS:   Yes, it's federal.

9           Q.    Is this report in a standard format  
10   that's used for all drivers and carrier inspections?

11           A.    Yes.

12           Q.    And please take a moment to look at Staff  
13   Exhibit 1.  Is it an accurate representation of the  
14   actual report that was issued to you -- or, issued by  
15   you that day?

16           A.    Yes.

17           Q.    What do you do after this report has been  
18   prepared?

19           A.    After I note all violations if any and  
20   then I print off a copy and approach the driver again  
21   and explain to him what violations I found and any  
22   problems that might have to be taken care of right  
23   there and whether the vehicle or driver or both were  
24   out of service.

25           Q.    And is a copy of the report given to the

1 driver as well?

2 A. Yes.

3 Q. Do you also send a copy of this report to  
4 the Public Utilities Commission of Ohio?

5 A. Yes. Completion of the day's work I get  
6 into the completed files transfer, tag my  
7 inspections, and then upload them to Columbus.

8 Q. So it's uploaded through your computer  
9 system.

10 A. Yes.

11 Q. I'd like to just briefly walk through the  
12 report itself. And let's start in the upper right  
13 corner. I see there's a report number. Would you  
14 please tell us what that represents?

15 A. That is report number in sequence of each  
16 inspection that I do, which would be the last four  
17 digits.

18 Q. And the first four digits I believe are  
19 your badge number; is that correct?

20 A. Yes.

21 Q. The inspection date was May 27, 2009; is  
22 that correct?

23 A. Yes.

24 Q. And then it looks like we also have a  
25 time that the inspection started and ended.

1           A.    Yes.

2           Q.    And you already mentioned that this was a  
3 level 1 full inspection.

4           A.    Yes.

5           Q.    I think already described for us what  
6 that entails, so thank you for doing that.

7                   Let's move down to the next section of  
8 the report.  What do we see there?

9           A.    Appliance Warehouse on the left corner  
10 would be the company's name, Appliance Warehouse,  
11 address, phone number, and their USDOT number, and  
12 off to right a little bit is their motor carrier  
13 number.

14          Q.    How do you obtain that information?

15          A.    Off the side of the vehicle.

16          Q.    Thank you.

17          A.    Through their regulation they have to  
18 have the markings on it.

19          Q.    Over to the right?

20          A.    Driver's name, license number and birth  
21 date and state.

22          Q.    How do you obtain --

23          A.    Ask for the driver's license.

24          Q.    All right, thank you.

25                   Let's move down to the location

1 information. Do you see that?

2 A. Yes.

3 Q. And please tell us where this inspection  
4 occurred.

5 A. Okay, this occurred at permit scale in  
6 Cambridge, Ohio on Interstate 70, and it was  
7 westbound scale.

8 Q. Westbound? And it looks like it occurred  
9 in Guernsey County; is that correct?

10 A. Yes.

11 Q. The vehicle identification information,  
12 how do you obtain --

13 A. The tractor -- through tractor  
14 registration. On the trailer I normally get that  
15 information from registration and the vehicle  
16 identification.

17 Q. Continuing down I see you have some brake  
18 adjustments noted there.

19 A. Yes.

20 Q. And those were findings that you made as  
21 a result of the inspection of the vehicle's brakes?

22 A. Yes, chamber size, the actual size of the  
23 brake chamber and the allowable amount that that push  
24 rod is allowed to travel when the service brakes are  
25 bad.



1           Q.    Let's look at the violation section in  
2           the middle of the report.  And I see you've noted a  
3           number of violations there and it looks like the  
4           first several violations are brake related  
5           violations; is that correct?

6           A.    Yes.

7           Q.    And those are actually not at issue today  
8           in this proceeding so I'd like to ask you if you  
9           would move down to the very last violation you've  
10          noted.  And please kind of walk us from the left side  
11          of the report over to the right and tell us what we  
12          have there.

13          A.    The violation section code is in our  
14          Aspen program which would be Federal Motor Carrier  
15          Regulation 391.11.  It is a driver's violation.  That  
16          would be under "Unit."  And the "OOS" is out of  
17          service, "Y" meaning yes.

18          Q.    So this was an out of service violation?

19          A.    Yes.  In our Federal Motor Carrier.  Upon  
20          examination of the driver's license they had a  
21          corrected lens restriction on his license on the CDL  
22          not to be operated without.

23                  Also on our Leads program which is also  
24          in our computers, we run driver's license and check  
25          for validity, that restriction also showed up on

1       there.

2                   I asked the driver if he had his glasses  
3       with him, did not. I always ask do you wear -- if  
4       they don't have them, do you have contacts in. He  
5       did not. And at no time did he produce a pair of  
6       glasses. So I knew that I had no recourse but to  
7       place the driver out of service

8           Q.     And what does that mean when you place  
9       the driver out of service for this type of violation?

10          A.     He cannot drive that vehicle until that  
11       out of service issue is lifted.

12          Q.     Thank you.

13          A.     That's the only way that would be able to  
14       happen. He would have to produce a pair of glasses.

15          Q.     And so at no time during the inspection  
16       from the beginning of the inspection to the end did  
17       the driver present you with a pair of eyeglasses or  
18       contact lenses.

19          A.     No. If they do then he would have been  
20       released.

21          Q.     And again, you noted that some type of  
22       corrective lenses were required based on a  
23       restriction on the CDL, the commercial driver's  
24       license; is that correct?

25          A.     Yes.

1           Q.    Thank you very much.

2                   And at the bottom of the report I see  
3 that it notes that the report was prepared by you.  
4 Correct?

5           A.    Yes.

6           Q.    And that a copy was given to the driver,  
7 Mr. Holliday.

8           A.    Yes.

9                   MS. PARROT:  Thank you very much.

10                   I believe I have no further questions for  
11 the witness, your Honor.

12                   EXAMINER STENMAN:  Mr. Holliday, do you  
13 have any questions for Officer Kernik?

14                   MR. HOLLIDAY:  Yes, and we go back to the  
15 violation code 391.11 in which we were here in which  
16 he stated at no point did I ever have glasses.  I did  
17 have glasses and I showed them to Officer Kernik.

18                   EXAMINER STENMAN:  You're going to have  
19 an opportunity to make a statement.  This is your  
20 opportunity to ask questions of the witness if you  
21 have any for him.

22                   MR. HOLLIDAY:  None, no.

23                   EXAMINER STENMAN:  Okay.

24                   MS. PARROT:  I would move for the  
25 admission of Staff Exhibit 1 at this time.

1                   EXAMINER STENMAN: We have a couple of  
2 questions for the witness.

3                   - - -

4                   EXAMINATION

5 By Examiner Stenman:

6                   Q. First of all, going back, you stated you  
7 got a company score from the Aspen program?

8                   A. Yes.

9                   Q. What is that?

10                  A. That's a safety rating that is issued to  
11 the company by the number of inspections generated  
12 across the United States. Always goes into Federal  
13 Motor Carrier Department of Transportation,  
14 Washington, DC, and Federal Department of  
15 Transportation based on the company's previous  
16 history of violations issued, and the score from 1 to  
17 100, 100 being the worst, 1 being the best on safety.

18                  Q. And then what do you do with those  
19 scores?

20                  A. That's how we determine to put on our  
21 reason code. You can use that process if we're at a  
22 laptop or computer inside the scales we can set their  
23 DOT numbers and we get a high score, we use that as  
24 the reason for the inspection.

25                  Q. And in this case was that one of the

1 reasons for the inspection?

2 A. In this case when I come in I didn't have  
3 access to that computer when I come in. I got ready  
4 to do another inspection, I have a USSP, which is  
5 Unified Safety Selection Process, and I myself it's  
6 fifth truck coming across the scale pad.

7 Q. Okay.

8 A. Once I get ready to do another  
9 inspection --

10 Q. And moving on, what happened after you  
11 placed Mr. Holliday out of service?

12 A. I informed him that he could not drive  
13 the vehicle, first of all, with the corrective lens  
14 not being worn, and also the out of service condition  
15 regarding his brakes on the truck.

16 And had him -- instructed him to park --  
17 we always park our vehicles at one end of our parking  
18 lot at the scales. And if we can assist them in way,  
19 we will.

20 Q. Do you know what happened after that, if  
21 someone just came and --

22 A. No, I do not. I go back to doing my job  
23 basically.

24 EXAMINER STENMAN: Do you have any  
25 questions?

1 - - -

2 EXAMINATION

3 By Examiner Farkas:

4 Q. So after the completion of your  
5 inspection you put him out of service, did he back  
6 the truck up or leave it there or what happened?

7 A. He parked the truck in the designated  
8 area where I instructed him to.

9 Q. And then did you see him leave or --

10 A. No.

11 Q. That was the end of your inspection.

12 A. I went about my normal day.

13 MS. PARROT: If I may just to maybe  
14 clarify a point.

15 EXAMINER STENMAN: Yes.

16 - - -

17 CONTINUED DIRECT EXAMINATION

18 By Ms. Parrot:

19 Q. Officer Kernik, I just want to be sure  
20 the record is clear in terms of why you stopped this  
21 particular vehicle for an inspection.

22 Sounds like initially you made the stop  
23 based on a statistical selection process; is that  
24 correct?

25 A. Yes.

1           Q.    That this was the fifth vehicle that  
2 passed your way.

3           A.    Yes.

4           Q.    And so you made the stop on that basis.  
5 But then you also checked through the Leads program  
6 for the safety rating of the carrier and found that  
7 that score was at a level that required an inspection  
8 as well; is that correct?

9           A.    Yes. And then on the Aspen program.

10          Q.    So really the inspection occurred for  
11 both of those reasons I guess.

12          A.    Correct.

13          MS. PARROT: Thank you. Nothing further.

14          EXAMINER STENMAN: Mr. Holliday, do you  
15 have any questions based on those questions?

16          MR. HOLLIDAY: No. I'm fine with it.

17          EXAMINER STENMAN: Okay.

18          MS. PARROT: I would renew my motion to  
19 admit Staff Exhibit 1 into the record.

20          EXAMINER STENMAN: Do you have any  
21 objections to Staff Exhibit 1 being admitted?

22          MR. HOLLIDAY: Not at all.

23          EXAMINER STENMAN: Staff Exhibit 1 will  
24 be admitted.

25                (Exhibit admitted.)

1 EXAMINER STENMAN: You're excused.

2 You may call your next witness.

3 MS. PARROT: At this time the staff calls  
4 Jonathan Frye to the witness stand.

5 (Witness sworn.)

6 EXAMINER STENMAN: Mr. Holliday, do you  
7 have any objections to the amount or the manner in  
8 which the fine was calculated?

9 MR. HOLLIDAY: I do but at that point in  
10 time I'll hold until we are done here. I do have an  
11 objection to the amount.

12 EXAMINER STENMAN: Okay. Please have a  
13 seat.

14 (Witness sworn.)

15 EXAMINER STENMAN: Ms. Parrot, you may go  
16 ahead.

17 - - -

18 JONATHAN FRYE

19 being first duly sworn, as prescribed by law, was  
20 examined and testified as follows:

21 DIRECT EXAMINATION

22 By Ms. Parrot:

23 Q. Good morning, Mr. Frye.

24 A. Good morning.

25 Q. Would you please state and spell your



1 name for the record?

2 A. Jonathan, J-o-n-a-t-h-a-n, Frye, F-r-y-e.

3 Q. Thank you.

4 What's your business address?

5 A. Public Utilities Commission of Ohio, 180  
6 East Broad Street, 4th Floor, Columbus, Ohio 43215.

7 Q. And is the Public Utilities Commission of  
8 Ohio your employer?

9 A. Yes.

10 Q. And how long have you been employed with  
11 the Commission?

12 A. Approximately 20 years.

13 Q. In what capacity are you currently  
14 employed?

15 A. I'm the Chief of the Compliance Division.

16 Q. And what do your duties as chief involve?

17 A. To supervise compliance officers, to  
18 review the assessments that are assessed against  
19 drivers, shippers, and carriers.

20 Q. And have you received any special type of  
21 training or do you hold certifications that help you  
22 perform your job?

23 A. I've gone through the North American out  
24 of service training, hazardous materials training,  
25 and bulk packaging training.

1           Q.    Thank you.

2                   I believe you mentioned that you review  
3 assessments that are made against carriers and  
4 drivers.  Would you please tell us more about how  
5 that process works?

6           A.    Once the inspection occurs, the inspector  
7 will upload the information into our mainframe.  
8 Based upon the violations that were written, the code  
9 cites that are written, we have a monetary amount  
10 that corresponds to the code cite that's written.  
11 The computer will generate a fine based upon the code  
12 site.  A letter is generated and sent to the carriers  
13 or drivers.

14           Q.    As part of your official duties have you  
15 had the opportunity to review the staff's file for  
16 this case?

17           A.    Yes.

18                   MS. PARROT:  May I approach the witness?

19                   EXAMINER STENMAN:  You may.

20           Q.    Mr. Frye, I have handed you what's been  
21 marked as Staff Exhibit No. 1 for identification  
22 purposes.  Do you recognize this document?

23           A.    Yes.

24           Q.    Would you identify it for us please?

25           A.    It is a Driver/Vehicle Examination

1 Report.

2 Q. And is this report regularly maintained  
3 by the Commission staff in the ordinary course of its  
4 business?

5 A. Yes.

6 Q. Would you please tell us how this report  
7 reaches the Commission?

8 A. It's uploaded into our mainframe by the  
9 inspector who generates the report or who conducts  
10 the report or the inspection. And the information is  
11 downloaded into our computer system and the computer  
12 based upon particular code cite will assess a fine  
13 associated with the code cite that's written.

14 Q. And then what happens at that point?

15 A. After the -- after a fine is generated we  
16 will print off a letter. A letter is sent to the  
17 driver by certified mail that tells -- that informs  
18 the driver that they have the opportunity to either  
19 pay the fine or to request a telephone conference to  
20 discuss it further.

21 Q. Thank you.

22 If you would please direct your attention  
23 to the middle of the first page of Staff  
24 Exhibit No. 1, there's a section headed "Violations."  
25 Do you see that?

1           A.    Yes.

2           Q.    It looks like there were a number of  
3 violations that were cited in this case.  For which  
4 of these violations did the staff elect to assess  
5 civil forfeiture?

6           A.    For 391.11.

7           Q.    And why is that violation the only one  
8 that has resulted in the assessment of a forfeiture  
9 in this case?

10          A.    Because the particular code cite is a  
11 cite to the driver himself.  So we will assess a  
12 monetary fine to the driver.

13          Q.    Thank you very much.

14                And I believe you've mentioned that that  
15 fine amount is determined based on the particular  
16 code section that's been cited; is that correct?

17          A.    That's correct.

18                MS. PARROT:  May I approach the witness  
19 again, your Honor?

20                EXAMINER STENMAN:  You may.

21          Q.    Mr. Frye, I've handed to you a copy of  
22 what's been marked as Staff Exhibit No. 2.

23                MS. PARROT:  And, your Honor, I would  
24 request that this document be so marked at this time.

25                EXAMINER STENMAN:  It will be so marked.

1 (Exhibit marked.)

2 Q. Mr. Frye, do you recognize this document?

3 A. Yes.

4 Q. And would you identify it for us please?

5 A. It is the Compliance Division's fine  
6 schedule.

7 Q. What type of information does this  
8 document contain?

9 A. It contains four different groups along  
10 with the various code cites from the Federal Motor  
11 Carrier Safety Regulations, and in addition to the  
12 code cites it contains the monetary dollar amount  
13 that should be assessed in the event that a driver or  
14 carrier is cited.

15 Q. And would you please tell us how this  
16 document was used to determine the amount of the  
17 forfeiture that's been assessed in this case?

18 A. Yes. Based upon the fact that the driver  
19 was issued a violation of 391.11, it would fall into  
20 our fines or the violations are broken up into groups  
21 1 through 4.

22 Typically group 4 violations are  
23 miscellaneous types of violations and their dollar  
24 amount can range anywhere from \$100 on up to \$1,000.  
25 And it's based upon a Commercial Motor Vehicle Safety

1 Alliance recommended fine schedule as well.

2 So when -- in this particular case the  
3 driver was cited for 391.11 violation. On page 3 of  
4 the fine schedule under "Section" it has 391.11,  
5 should be a group 4 violation, and then next to it  
6 says "Driver qualification," there's \$250 assessment  
7 for that type of violation.

8 Q. Thank you.

9 Is Staff Exhibit No. 2 regularly  
10 maintained by the Commission staff in the ordinary  
11 course of business?

12 A. Yes.

13 Q. And was this fine schedule in effect for  
14 inspections occurring on May 27, 2009?

15 A. Yes.

16 Q. What actually is the effective date of  
17 this fine schedule?

18 A. October 1, 2008.

19 Q. And you're looking at page 1 of Staff  
20 Exhibit No. 2; is that correct --

21 A. Correct.

22 Q. -- for that information?

23 A. That's correct.

24 Q. And I believe you mentioned that the  
25 dollar amounts here are consistent with the standards

1 of the Commercial Vehicle Safety Alliance; is that  
2 correct?

3 A. That's correct, yes.

4 Q. And the process that you've described for  
5 assessing forfeitures, is that also consistent with  
6 the recommendations of the Commercial Vehicle Safety  
7 Alliance?

8 A. Yes.

9 Q. Is this fine schedule used consistently  
10 by your staff in assessing forfeitures against  
11 drivers and carriers?

12 A. Yes.

13 Q. And was the forfeiture in this particular  
14 case properly determined in your opinion?

15 A. Yes.

16 Q. Is the \$250 amount reasonable in your  
17 opinion?

18 A. Yes.

19 Q. And is that the amount that you would  
20 recommend to the Commission?

21 A. Yes.

22 Q. I believe you also mentioned that letters  
23 are generated and mailed to carriers and drivers; is  
24 that correct?

25 A. That's correct.

1           Q.    And was a letter mailed in this case to  
2   Mr. Holliday to inform him of the assessment of the  
3   forfeiture?

4           A.    Yes.

5           MS. PARROT:   May I approach the witness,  
6   your Honor?

7           EXAMINER STENMAN:   You may.

8           MS. PARROT:   Your Honor, at this time I  
9   would ask that Staff Exhibit No. 3 be marked for  
10   identification purposes.

11          EXAMINER STENMAN:   It will be so marked.

12          (Exhibit marked.)

13          Q.    Mr. Frye, do you recognize what's been  
14   marked as Staff Exhibit No. 3?

15          A.    Yes.

16          Q.    Would you identify it?

17          A.    It is the Notice of Apparent Violation  
18   Intent to Assess Forfeiture letter.

19          Q.    What's the purpose of this letter?

20          A.    To advise respondent, the driver, of our  
21   intent to assess a forfeiture and to provide him with  
22   notice of that.

23                To also inform him that he has the option  
24   of either paying the violation or to make a request  
25   for a conference to dispute the violation.



1           Q.    Is this an accurate representation of the  
2 actual letter that was mailed to Mr. Holliday?

3           A.    Yes.

4           Q.    And is Staff Exhibit No. 3 regularly  
5 maintained by the Commission staff in the ordinary  
6 course of business?

7           A.    Yes.

8           MS. PARROT: May I approach the witness  
9 again, your Honor?

10          EXAMINER STENMAN: You may.

11          MS. PARROT: Your Honor, I would like to  
12 mark Staff Exhibit No. 4 for identification purposes.

13          EXAMINER STENMAN: It will be so marked.

14          (Exhibit marked.)

15          Q.    Mr. Frye, do you recognize Staff  
16 Exhibit No. 4?

17          A.    Yes.

18          Q.    Please identify it for us.

19          A.    It's a Notice of Preliminary  
20 Determination.

21          Q.    Was this letter also mailed to  
22 Mr. Holliday?

23          A.    Yes.

24          Q.    Is Staff Exhibit No. 4 an accurate  
25 representation of the letter that was actually mailed

1 to Mr. Holliday?

2 A. Yes.

3 Q. And what is the purpose of this letter?

4 A. To advise the respondent driver of our  
5 findings and to provide him with notice about he can  
6 either pay the fine or how he can go about contesting  
7 the monetary amount and the violation, the next  
8 level.

9 Q. And is Staff Exhibit No. 4 regularly  
10 maintained by the Commission staff in the ordinary  
11 course of business?

12 A. Yes.

13 MS. PARROT: I have no further questions  
14 for this witness, your Honor.

15 EXAMINER STENMAN: Mr. Holliday, you have  
16 any questions for this witness?

17 MR. HOLLIDAY: No, I do not at this time.

18 EXAMINER STENMAN: The Bench has nothing.  
19 You are excused.

20 MS. PARROT: At this time the staff would  
21 move for the admission of Staff Exhibits No. 2, 3,  
22 and 4.

23 EXAMINER STENMAN: Do you have any  
24 objections, Mr. Holliday?

25 MR. HOLLIDAY: No, I do not.

1 EXAMINER STENMAN: Staff Exhibits No. 2,  
2 3, and 4 will be admitted.

3 (Exhibits admitted.)

4 MS. PARROT: The staff has no further  
5 witnesses, your Honor.

6 EXAMINER STENMAN: Does this complete  
7 your case then?

8 MS. PARROT: It does, your Honor.

9 EXAMINER STENMAN: Mr. Holliday, I'm  
10 assuming you don't have any witnesses. If you'd like  
11 to make a statement?

12 MR. HOLLIDAY: Yes, I would.

13 EXAMINER STENMAN: Why don't you come up  
14 here and take the stand, we'll swear you in.

15 (Witness sworn.)

16 EXAMINER STENMAN: You can go ahead and  
17 have a seat and you can make your statement when  
18 you're ready.

19 - - -

20 STEVEN HOLLIDAY  
21 being first duly sworn, as prescribed by law, was  
22 examined and testified as follows:

23 DIRECT TESTIMONY

24 THE WITNESS: My question basically is  
25 going to fall on with Exhibit 1. As we heard Officer

1 Kernik say, this commercial vehicle was put out of  
2 service and if we go back to Exhibit 1 of being on  
3 put out of service and could not operate this  
4 vehicle.

5 I drove that vehicle off that day. With  
6 glasses, and with brakes repaired. So therefore I  
7 had glasses, and I had also the brakes repaired which  
8 he signed off on which he should have a letter.

9 I went to Officer Kernik when he first  
10 inspected the vehicle when he did his initial  
11 walk-around and I said I knew I had them when I came  
12 across the scale, I set them on my bag. After he  
13 wrote this vehicle up, went back, they had fell off  
14 because they had sat on the scales for so long.

15 And when I -- after coming back and he  
16 did the initial around and I gave him my license and  
17 my DOT medical card, he never asked me for glasses.

18 It was upon after doing the brake  
19 inspection as noted in the violations portion is when  
20 he asked me the letter and said that he was putting  
21 me out of service.

22 When he went back to the building, upon  
23 going back to the building I walked back over and I  
24 opened the passenger side door, that's when I found  
25 my glasses. I showed them to Officer Kernik, he said

1 well, you still can't go nowhere until a mechanic  
2 comes.

3 And that was the problem, I was going  
4 through my bag looking for my phone to call the  
5 company to let them know that I had been put out of  
6 service for the brakes. And that's when I found the  
7 glasses on the other side because that's, as I say, I  
8 stayed on the scales entirely too long behind an  
9 oversized and I never drove the vehicle but from the  
10 scales back to the back.

11 Because I knew I was on -- I knew that it  
12 was empty and I knew I had just got the tractor back  
13 on Monday, which we rent from Ryder, and the trailer  
14 was just inspected on Saturday. And at that point I  
15 knew it shouldn't have been any violations, but he  
16 found the violations.

17 And if you look at the glasses which  
18 should have been first, if he had asked me right then  
19 and there, it wouldn't have fell after he done the  
20 inspection initially.

21 So that's my point in being here today.  
22 If you say I was out of service because of glasses, I  
23 would have never been able to leave.

24 EXAMINER STENMAN: Do you have anything  
25 else?

1                   THE WITNESS: That's all I have to say  
2 today.

3                   Oh, one more thing, I understand that  
4 Federal Motor Carriers have pretty much set, as he  
5 said, a set standard fee, but for brakes and  
6 violations you get \$150, and to have glasses and just  
7 not have them at that particular moment or when asked  
8 because you can't find them, you get \$250. It's kind  
9 of excessive. So but what can you do.

10                   - - -

11                   EXAMINATION

12 By Examiner Stenman:

13                   Q. Okay. I just want to clarify what you're  
14 telling me here.

15                   You're saying that he never asked you  
16 about your glasses, that's your position.

17                   A. He asked me -- after he inspected the  
18 vehicle he asked me for my driver's license, he -- my  
19 driver's license and DOT medical, which they normally  
20 do. And I gave it to him.

21                   We did the complete walk-around. He said  
22 I'm going to inspect the vehicle. He went up under  
23 the hood, up under the back, I sat there and I  
24 adjusted the brakes.

25                   When he came back to me after this was

1 done that's when he asked me for the glasses. That's  
2 why the last thing on here was the glasses.

3 Q. And what did you say when he asked you?

4 A. I said I know I have them, because I know  
5 I did. Once he went back up to the building I walked  
6 up with him, I came back, I opened the driver's side  
7 door and they were on the floor. Because like I  
8 said, reaching for my bag and pulling the stuff out  
9 of my bag calling my company, telling them I had been  
10 put out for violations, that's when I found it.

11 He rolled it up and handed me the paper  
12 right by his car. At that point he said would you  
13 back your vehicle up, as he said, facing the highway,  
14 which I did.

15 After they signed off of fixing the brake  
16 adjustments I had my glasses, I said Officer Kernik,  
17 I got the glasses here, they fixed the brakes, he  
18 said you're free to go.

19 Q. So you didn't tell him you had the  
20 glasses though until after the brakes were fixed?

21 A. No. No. No. This was before the brakes  
22 was fixed. This was before the brakes was fixed  
23 because I had to have an outside company come in.

24 But I had found the glasses. As soon as  
25 he handed me the paper and I went back to the -- I

1 mean before he handed me the paper because he had to  
2 go up to the office and ask the questions about  
3 something.

4 And I went to back to the car -- back to  
5 the truck and then when I opened the passenger side  
6 door, that's when I seen the glasses. They had fell  
7 out of my bag. I told him I knew I had them because  
8 I was sitting right there with them waiting on the  
9 scales

10 Q. So I'm just a little unclear, and this  
11 may be on my part. So you go to your vehicle, you  
12 open the door, you find your glasses. Do you then  
13 back the vehicle into the spot or do you --

14 A. I went back to Officer Kernik.

15 Q. And you said "here."

16 A. "I found my glasses."

17 I had told him this from the initial  
18 before he had even written this up. And after he  
19 went back and he had to ask the officer about  
20 something. And he said well, you're still out of  
21 violation -- you're still in violation because of the  
22 brakes. And once the brakes -- I said well, I got  
23 the company on the way.

24 I backed up like he told me, backed into  
25 the hole with the nose facing I-70, and once he came



1 in he adjusted the brakes, he signed off saying okay,  
2 he let me go.

3 Because if I couldn't, I couldn't be able  
4 to drive. It would be almost just like driving  
5 without a driver's license.

6 EXAMINER STENMAN: Okay.

7 - - -

8 EXAMINATION

9 By Examiner Farkas:

10 Q. So you're saying that the glasses were  
11 in --

12 A. They were in my bag -- they were on top  
13 of my bag. I set them on top of my bag because we  
14 were sitting on the scales as just -- I don't know if  
15 you know what a scale, actually a scale. And there  
16 was an oversize load up there and they kept him on  
17 the scales for so long.

18 I don't know why but they pulled him  
19 around and there was a truck in front of me, they  
20 pulled him around, they pulled me around.

21 And as I went forward, Officer Kernik the  
22 whole time was outside. Because I was sitting there  
23 watching him. I know Officer Kernik from previous  
24 encounters there.

25 And I pulled the plugs on the truck and I

1 walked over to him and at that point that's when he  
2 told me well, we're going to do an inspection on your  
3 vehicle today. He was not at the window, he was  
4 outside.

5 Q. And the glasses you're saying were in the  
6 cab of the vehicle?

7 A. Yes. They were on top of my bag.

8 Now, once he said give me your driver's  
9 license and DOT card and your books, I went inside,  
10 grabbed off the side of the door, gave him the book,  
11 gave him my license and DOT medical, did a basic  
12 walk-around. After he punched this information in he  
13 gave me my license back and my DOT medical card back.  
14 And he -- that was it.

15 Once he found the violations of the  
16 brakes, then he asked for my license again. He did  
17 not ask for the DOT medical card again. He just  
18 asked for my license. And that's when he asked about  
19 the glasses.

20 At that point, like I said, I'm  
21 scrambling for telephones so I can call the company  
22 and tell them that I had been put in violation.

23 So after he writes all this up he goes  
24 back to the office there and he's talking to another  
25 gentleman I guess, I don't know what it was. And I

1       went back to the truck.

2                       When I opened the door to get my regular  
3       cell phone because I had gotten in touch to the  
4       company because they were going to call me on my cell  
5       phone to find out, that's when I noticed the glasses  
6       was right there on the floor, they had fallen off.  
7       And I went back to him and said here. He said okay.

8                       So after the guy comes, and like I said,  
9       I backed the truck up. I backed the truck up and I  
10      pulled it out of there after all the violations were  
11      fixed.

12                      Q.    So you -- are you saying you entered the  
13      scale with your glasses on?

14                      A.    No, I did not. I did not cross the scale  
15      with the glasses on. Because like I said, we sat  
16      there so long I had them in my hand and after waiting  
17      on this oversize truck to leave, that's when I set  
18      them on my bag. Because I'm thinking we're going to  
19      roll.

20                      But when he threw the red light on me, I  
21      just swung around the back. And obviously they must  
22      have fell off but that's where they were and I was  
23      looking everywhere because I knew I had them.

24                      MS. PARROT: Just a few questions if I  
25      may.

1 EXAINER FARKAS: Just one more thing.

2 Q. Are you saying then that you told him --  
3 I think what you said is that when you showed him  
4 your glasses you say the officer said "okay"?

5 A. Yes. Right. He did. I went inside and  
6 showed him my glasses. I said "Officer Kernik, here  
7 are my glasses." And he was like "Okay."

8 EXAINER FARKAS: Go ahead.

9 MS. PARROT: Thank you, your Honors.

10 - - -

11 CROSS-EXAMINATION

12 By Ms. Parrot:

13 Q. Just to clarify a few points, make sure I  
14 understand your testimony correctly.

15 First off, you're not disputing you have  
16 a restriction on your driving privileges that  
17 requires you when operating a vehicle to wear either  
18 glasses or contacts?

19 A. No. That was -- I've been having my  
20 license pretty much for 36 years. I've -- not only  
21 through the Ohio, I've been stopped and pulled over  
22 in pretty much every state that has a DOT place, I've  
23 never had a problem, and that's been like 36 years.  
24 As I said, no, never had a problem.

25 Q. So you've been required during those 36

1 years to wear glasses or contacts?

2 A. Well, from the initial, yes. Yes. And I  
3 also keep either these or a pair of prescription  
4 reading glasses with me at all times anyway. Which I  
5 showed him. Was not my -- which is these glasses or  
6 a regular, but I have a pair of prescription glasses  
7 too.

8 EXAINER FARKAS: And "him" you're  
9 referring to the office, sir?

10 A. I'm sorry, Officer Kernik. I'm sorry.

11 Q. And I think the Bench has done a good job  
12 of trying to clarify the sequence of events, but I  
13 want to go over it one more time, make sure I  
14 understand.

15 So it was your testimony that you were  
16 wearing your glasses while you were on Interstate 70  
17 driving.

18 A. Right.

19 Q. You reached the scales, you had your  
20 glasses on at that point and then you were waiting in  
21 a line of vehicles.

22 A. Right.

23 Q. And at that point you removed your  
24 glasses.

25 A. That's when I removed my glasses. And

1     like I said, sitting on the scale, oversize, you've  
2     seen them on the highway, and why they had him up  
3     there so long, I don't know, but at that point it was  
4     like okay, what you going to do, either pull him or  
5     let us go.

6                 And as I approached, like I said, when  
7     they took off, I rolled along five miles an hour, I  
8     had my glasses here. But when he swung me around and  
9     made me come to the back of the station, I pulled the  
10    plugs, I got out and I met him on the outside of the  
11    truck, and that's when he told me that they were  
12    going to do I guess level 1 inspection.

13                Q.    So while you were in the line waiting.

14                A.    Is when I removed my glasses.

15                Q.    You removed them at that point.

16                A.    That is correct.

17                Q.    You set them on a bag or something?

18                A.    On my bag that I carry with my logbook.

19    On top of the bag with the logbook.

20                Q.    And the glasses remained there it's your  
21    testimony until you found them later.

22                A.    Correct.

23                Q.    So you did move your vehicle from the  
24    point at which you removed them when you were in the  
25    line.

1           A.    Uh-huh.

2           Q.    Moved the vehicle, then you were moved  
3 how far? To the point where you were inspected.

4           A.    Across the scale to the back, 15,  
5 20 feet. If that far.

6           Q.    Is that your testimony? I'm just asking  
7 for approximation.

8           A.    Approximately 15, 20 feet.

9           Q.    And so at that point the glasses were  
10 still over --

11          A.    On the seat in the back.

12          Q.    -- on the passenger side.

13          A.    That is correct.

14          Q.    So then you were stopped, inspected, and  
15 then at that point you discovered glasses on the  
16 passenger side of the vehicle.

17          A.    That is correct.

18          Q.    That's your testimony today?

19          A.    That is correct.

20          Q.    And you also have testimony that you then  
21 presented those glasses to Officer Kernik.

22          A.    That is correct. I mean he's here. I  
23 would have to -- because as I said, without glasses  
24 it's almost driving without a driver's license, which  
25 at that point he could hold me for forever until it

1 was proof of it.

2 Q. Thank you.

3 MS. PARROT: May I have a moment, your  
4 Honors?

5 EXAMINER STENMAN: Go ahead.

6 (Off the record.)

7 MS. PARROT: We have no further questions  
8 for the witness. Thank you.

9 EXAMINER STENMAN: Do you have anything  
10 else, Mr. Holliday?

11 MR. HOLLIDAY: No, I do not.

12 EXAMINER STENMAN: You can step down.

13 MS. PARROT: Your Honor, if it's okay  
14 with the Bench, I believe we would like to recall  
15 Mr. -- officer Kernik for rebuttal testimony.

16 EXAMINER STENMAN: Go ahead.

17 MS. PARROT: Staff calls again Officer  
18 Kernik to the stand.

19 EXAMINER STENMAN: I'll just remind you,  
20 Officer Kernik, that you're still under oath.

21 MS. PARROT: Thank you, your Honors.  
22 Just a few follow-up questions.

23 - - -  
24  
25



1 ROBERT KERNIK

2 being previously duly sworn, as prescribed by law,  
3 was examined and testified as follows:

4 FURTHER DIRECT EXAMINATION

5 By Ms. Parrot:

6 Q. Officer Kernik, if you'd please direct  
7 your attention to what's been marked as Staff  
8 Exhibit 1, the violations section, and particularly  
9 the order of violations that is listed there. Is  
10 there any particular reason for the order of the  
11 violations?

12 A. Yes. I write the violations as I'm going  
13 through the inspection, on a separate notepad, 1  
14 through whatever how many I find.

15 Q. So they're listed there in the order that  
16 you discovered them during your inspection?

17 A. Yes. License information is completion  
18 of the report I do after I get back into my cruiser.  
19 The first part on this DOT number, get the company  
20 information and stuff. Then I go ahead and do the  
21 inspection and get the documents.

22 After I'm done doing all the brakes and  
23 everything, then I get the documents and look at  
24 them, registration bills, when they apply, logbook,  
25 license, medical card.

1                   And medical card all I have to do, look  
2                   at the date on it, match the name, date of exam, date  
3                   of registration. Take the license back to the car  
4                   and get this and fill out the report.

5                   After I enter the driver information  
6                   running on Leads and verify that it's valid or not  
7                   valid or any restrictions. That's why the driver  
8                   violation would appear last.

9                   Q.    Thank you for that explanation.

10                  Were you in the room when Mr. Holliday  
11                  testified? Just now --

12                  A.    Yes.

13                  Q.    -- today?

14                  And so you heard his testimony

15                  A.    Yes.

16                  Q.    I believe he testified that he presented  
17                  a pair of glasses to you at some point during the  
18                  inspection, that he found them somewhere around the  
19                  passenger side of his vehicle and that he presented  
20                  those to you. Is that your recollection?

21                  A.    It would not have been during the  
22                  inspection. I would not have written the violation.  
23                  When I asked about the glasses or contacts it is  
24                  during the inspection. That's when I need to see  
25                  those.

1           By the completion of the inspection they  
2 cannot produce their glass, contacts, then the  
3 violation. If the glasses were produced to me during  
4 the inspection, I would not have listed the  
5 violation. I need to see them upon command.

6           Q. And he also I believed testified that he  
7 came to you at some point showing you a pair of  
8 glasses and that the brake violations had been  
9 remedied and you said something to the affect of  
10 "okay, you're free to go."

11           MS. PARROT: I hope I'm not paraphrasing  
12 too much there.

13           Q. Is that your recollection?

14           A. Yes.

15           Q. So you do recall that he came to you?

16           A. Well, apparently if he left he had to  
17 show something if I was still there.

18           Q. But do you recall --

19           A. Particularly in that day, that case at  
20 the end of the day, I don't recall. I've done  
21 probably close to a thousand inspections on other  
22 vehicles since then.

23           Q. So you don't remember whether or not the  
24 out of service violations were remedied in this case?

25           A. Well, if he drove out of there they would

1 have had to been. But I could go back through my  
2 records to see if I issued a verification of vehicle  
3 repairs for brakes being out, but we have no such  
4 document for driver violation.

5 Q. You don't personally recall witnessing  
6 Mr. Holliday driving the vehicle out of the scales?

7 A. No, I don't.

8 MS. PARROT: I believe I have no further  
9 questions.

10 EXAMINER STENMAN: So you don't remember  
11 if he ever showed you glasses?

12 THE WITNESS: I don't remember. Just  
13 what I do during my inspection process beginning till  
14 I sign off.

15 - - -

16 EXAMINATION

17 By Exainer Farkas:

18 Q. And before he -- and during when you put  
19 him out of service his vehicle would have been at the  
20 scales.

21 A. Yes.

22 Q. And in order to leave that scales he  
23 would have had to correct the out of service  
24 violation.

25 A. Yes.

1           Q.    So he couldn't have moved the truck or  
2   the truck couldn't have been moved by anyone unless  
3   the out of service --

4           A.    Not out on the public road.

5           Q.    Not unless the violations were corrected.

6           A.    Unless the violations were corrected.

7           Q.    But you don't recall whether or not  
8   Mr. Holliday came to you and showed you his glasses  
9   at any time.

10          A.    Not that particular day I don't.

11          Q.    Either during the inspection or after the  
12   inspection.

13          A.    No. He didn't -- certainly didn't  
14   produce them during the inspection because if he  
15   would have, I wouldn't have written the violation.

16          Q.    But after the inspection was completed  
17   you don't recall whether or not he came to you and  
18   showed you glasses.

19          A.    No, I don't recall it. Possibly did, I  
20   just, like I say, I do so many thousand inspections,  
21   it's hard to pick out one particular instance.

22          Q.    And it's your testimony though that even  
23   if he had produced glasses you wouldn't have removed  
24   that out of service violation because he didn't  
25   produce the glasses during the inspection?

1           A.     During the inspection. The violation  
2     existed at the inspection time. From the time I  
3     asked for the glasses until I was complete with the  
4     inspection and signed off on it, gave him his copy of  
5     the inspection and informed him that he was out of  
6     service for the brakes, vehicle out of service, the  
7     brakes, and he was out of service for the glasses.  
8     And had him park the truck.

9           Had he -- he did not show me any glasses  
10    at the completion of the inspection. When I went up,  
11    Mr. Holliday, here's your copy of the inspection,  
12    blah, blah, blah, you're out of service for these  
13    violations. Unfortunately you don't have your  
14    glasses, you're out of service. Park the truck.

15           He did not have them on him at that  
16    instance to show me. He brought them in later. I  
17    don't recall if he did then. I had -- then the out  
18    of service condition on him would have been lifted  
19    but the violation still existed because he did not  
20    have them during the inspection.

21           Q.     And even if he wasn't -- strike that.

22           You put him out of service and he could  
23    not drive the commercial motor vehicle until he had  
24    glasses; is that correct?

25           A.     Right.

1           Q.    And but you don't recall whether or not  
2 he produced glasses.

3           A.    No, I don't recall that particular  
4 instance. He drove out of there and came back in  
5 then and he says I said let him go or I would not  
6 have let him go.

7           Q.    And you don't recall whether he showed  
8 you glasses and you said okay.

9           A.    No, I don't recall that. Very busy  
10 inside the buildings and things. And we have no  
11 documentation for verification forms for drivers  
12 because of an out of service condition.

13           EXAMINER STENMAN: Do you have any  
14 questions? Any follow-up?

15           MS. PARROT: No, your Honor.

16           EXAMINER STENMAN: Officer Kernik, you're  
17 excused.

18           Anything else from staff?

19           MS. PARROT: No, your Honor.

20           EXAMINER STENMAN: Anything else,  
21 Mr. Holliday?

22           MR. HOLLIDAY: No.

23           EXAMINER STENMAN: Seeing that we have  
24 nothing else to come before us at this time, this  
25 case will be submitted on the record and the hearing

1 is adjourned.

2 (Hearing adjourned at 10:57 a.m.)

3 - - -



## 1 CERTIFICATE

2 I do hereby certify that the foregoing is a  
3 true and correct transcript of the proceedings taken  
4 by me in this matter on 27th, January, 2010, and  
5 carefully compared with my original stenographic  
6 notes.

7 \_\_\_\_\_  
8  
9 Julieanna Hennebert, Registered  
10 Professional Reporter and RMR and  
11 Notary Public in and for the  
12 State of Ohio.

13 My commission expires February 19, 2013.

14 (JUL-1512)

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Summary: Transcript Transcript of Steven Holiday hearing held on 01/27/10. electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Hennebert, Julieanna Mrs.